IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No. 1229 of 2004

Shri Ravindra R. Avtade .. Petitioner
V/s.
Govt. of Maharashtra & Anr. .. Respondents

Mr. M.D. Lonkar for the Petitioner
Mr. S.R. Nargolkar, AGP. for the Respondents.

CORAM : S. RADHAKRISHNAN &
S.A. BOBDE, JJ.
DATED : 15.12.2004.

P.C.:-

1. Heard the learned counsel for the Petitioner and the learned Additional Government Pleader for the Respondents. By this Petition, the Petitioner is challenging the order passed by the Maharashtra Administrative Tribunal dated 5.9.2003, whereby the Petitioner's original application No. 261 of 2003 was dismissed by the Maharashtra Administrative Tribunal on the ground of limitation as well as on merits.

2. It should be noted here that whenever the matter is to be dismissed on the ground of limitation, the Tribunal should only deal with the issue of limitation and not go into the issue of merit. In the instant case, the Tribunal has held that the original application is barred by law of limitation. If that be so, the Tribunal ought not have gone into the merits of the above matter. In the aforesaid facts and circumstances, as the error of law is apparent on the face of the record, we find that the entire judgment is vitiated. Under these

circumstances, we do hereby quash and set aside the

aforesaid judgment and order dated 5.9.2003 passed by the learned Maharashtra Administrative Tribunal in original application no. 269 of 2003. Original application is remanded back to the Maharashtra Administrative Tribunal to be strictly decided on it's own merits in accordance with law, including the issue of limitation. The Maharashtra Administrative Tribunal, Mumbai bench is directed to expeditiously hear and dispose of the above Original Application, preferably on or before 28.2.2005.

(S. RADHAKRISHNAN, J.)

(S.A. BOBDE, J.)